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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/371,983	08/11/1999	NIGEL J R KING	476-1827	9883

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[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2662

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/371,983	KING, NIGEL J R	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andrew M Waxman	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because it exceeds the limit of one paragraph.  
Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4 and 6-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Gardner et al., patent number 5,857,147, herein after referred to as Gardner.

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3. Regarding claims 1 and 7, Gardner discloses a system including a base station (2) capable of communicating with a plurality of remote users (4) by way of user channels. The base station includes means (vocoder) for coding data at a plurality of different data rates (see col. 6 lines 40-43), and monitoring means (rate control logic) for monitoring the amount of data traffic at the base station (see col. 5 lines 51-54). Gardner further discloses the ability to reduce the data rate if the amount of data traffic at the base station exceeds a predetermined level (see col. 5-6 lines 65-9 and col. 8 lines 11-24). See also Block Diagram Figure 5.

4. Regarding claim 2, Gardner further discloses a system for controlling transmission rates in the uplink (forward) and downlink (reverse) directions specifying a plurality of rates for which the vocoder can encode the data (see col. 6 lines 40-44) thereby allowing equal transmission rates in both directions.

5. Regarding claim 3, Gardner further discloses the same coding means (vocoder) at both the base (2) and user (4) stations with the same monitoring means (rate control logic) to control it. See Figure 12 and 13, col. 9 and 10 lines 15-30 and 15-30.

6. Regarding claim 4, Gardner further discloses the coding means (vocoder) at both the base (2) and user (4) stations with monitoring means (rate control logic) to control them. This allows for the ability to control the coding data rates in the uplink (forward) and downlink (reverse) directions. See Figure 12 and 13, col. 9 and 10 lines 15-30 and 15-30.

7. Regarding claim 6, Gardner further discloses the ability to change the transmission rate during a call if the data traffic at the base station exceeds a predetermined level (see col. 8 lines 11-24).

8. Regarding claims 8 and 9, Gardner discloses the system implementing the method as recited in claims 1 and 2 above. Since Gardner discloses the system the method as recited in claims 8 and 9 are inherent to Gardner.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner et al., patent number 5,857,147, herein after referred to as Gardner

11. Regarding claims 5 and 10, Gardner discloses all of the limitations as recited above with respect to claims 4 and 8.

12. Gardner does not disclose a system (claim 5) and method (claim 10) where the coding means is able to apply different coding rates in the uplink and downlink direction.

13. At the time the invention was made it would have been obvious to one of ordinary skill in the art to include coding means with the ability to apply different coding rates in the uplink and downlink direction in the system as disclosed by Gardner.

14. One of ordinary skill in the art would have been motivated to do this so as to accommodate an unbalanced transmission load (i.e. uplink >> downlink or vice versa) by allowing for greater allocation of the bandwidth in one of the uplink or downlink directions. This would provide a more marketable invention by accommodating for instances such as Internet access where in most cases the downlink bandwidth requirements are much greater than the uplink requirements.

***Response to Arguments***

15. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mayrand et al., discloses a communication channel selection method. DeMartin et al., discloses a system for dynamic adaptation of data/channel coding.

Seo discloses a traffic load control method for CDMA mobile communication systems.

Smolik et al., discloses a system for increasing the call capacity of a wireless communications system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M Waxman whose telephone number is (703) 305-8086. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (703) 305-4744. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Andrew M. Waxman  
February 6, 2003



HASSAN KIZOU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600